

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JOHN E. MILLER,	§	
	§	No. 492, 2008
Defendant Below,	§	
Appellant,	§	Court Below—Superior Court
	§	of the State of Delaware in and
v.	§	for New Castle County
	§	
STATE OF DELAWARE,	§	
	§	
Plaintiff Below,	§	Cr. ID No. 0607013529
Appellee.	§	

Submitted: January 16, 2009

Decided: April 7, 2009

Before **STEELE**, Chief Justice, **JACOBS** and **RIDGELY**, Justices.

**ORDER**

This 7<sup>th</sup> day of April 2009, upon consideration of the briefs of the parties and the Superior Court record, it appears to the Court that:

(1) The appellant, John E. Miller, filed this appeal from the Superior Court’s August 27, 2008 denial of his motion for postconviction relief pursuant to Superior Court Criminal Rule 61(“Rule 61”). We conclude that there is no merit to Miller’s appeal. Accordingly, we affirm the judgment of the Superior Court.

(2) In December 2006, Miller pled guilty to two counts of misuse of mail and one count of terroristic threatening. In March 2007, Miller was sentenced as a habitual offender to a total of seven years at Level V suspended after five years for

one year at Level IV. In exchange for Miller's guilty plea, the State dismissed nine other counts of misuse of prisoner mail and one count of terroristic threatening.

(3) On direct appeal, Miller represented himself, claiming that he was sentenced improperly. Miller also claimed to know the details of an alleged terrorist plot. Miller offered to share the alleged terrorist plot information with the Court in exchange for an investigation into a claim that he was framed for robbery in 1998.

(4) By order dated December 12, 2007, the Court affirmed Miller's guilty plea and sentence.<sup>1</sup> The Court determined that there was no merit to Miller's sentencing claim. The Court further determined that Miller's offer to provide information about an alleged terrorist plot was not a claim cognizable on appeal.<sup>2</sup>

(5) In his postconviction motion and now on appeal, Miller alleges that his guilty plea was coerced. In his opening brief, Miller contends that he was afraid to raise the claim on direct appeal, and he urges the Court to expand the record.<sup>3</sup> Miller also repeats his offer to provide the Court with information about an alleged terrorist plot.

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<sup>1</sup> *Miller v. State*, 2007 WL 4336198 (Del. Supr.).

<sup>2</sup> *Id.*

<sup>3</sup> Miller seeks to expand the record to include copies of documents that he attached to his postconviction motion and/or are filed in the Superior Court record, including letters that he wrote to his defense counsel, to two Superior Court judges and to the prison law library.

(6) When denying Miller’s postconviction motion, the Superior Court determined that Miller’s claim of involuntary guilty plea was procedurally barred pursuant to Rule 61(i)(3).<sup>4</sup> The Superior Court further determined that Miller’s offer to provide information about an alleged terrorist plot was procedurally barred pursuant to Rule 61(i)(4).<sup>5</sup>

(7) Having carefully reviewed the parties’ positions on appeal and the Superior Court record, including Miller’s former defense counsel’s affidavit, we conclude that the Superior Court did not err when determining that Miller’s postconviction claims were procedurally barred. Miller could have, but did not, raise his claim of involuntary guilty plea on direct appeal. As a result, that claim is barred pursuant to Rule 61(i)(3) as Miller has provided no basis to excuse the procedural default.<sup>6</sup> Conversely, Miller’s offer to provide the Court with information about an alleged terrorist plot was considered by the Court on direct appeal and was rejected. As a result, that claim is properly barred as formerly

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<sup>4</sup> See Del. Super. Ct. Crim. R. 61(i)(3) (providing that any ground for relief that that was not asserted in the proceedings leading to the judgment of conviction or on direct appeal is procedurally barred unless the movant demonstrates “cause for relief from the procedural default” and “prejudice” arising from the alleged grievance).

<sup>5</sup> See Del. Super. Ct. Crim. R. 61(i)(4) (barring formerly adjudicated claims).

<sup>6</sup> See Del. Super. Ct. Crim. R. 61(i)(5) (providing that the procedural bar of Rule 61(i)(3) shall not apply to a claim that the Court lacked jurisdiction or to a colorable claim that there was a miscarriage of justice because of a constitutional violation).

adjudicated pursuant to Rule 61(i)(4) as Miller has not demonstrated why the claim should be reconsidered in the interest of justice.<sup>7</sup>

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Henry duPont Ridgely  
Justice

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<sup>7</sup> See Del. Super. Ct. Crim. R. 61(i)(4) (barring formerly adjudicated claims unless reconsideration is warranted in the interest of justice).